

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----x  
ROBERT SASS,

Plaintiff,

06-CV-6469 (PKC)

-against-

ANSWER

LONG ISLAND RAILROAD COMPANY,

Defendant.

-----x  
SIRS:

Defendant, The Long Island Rail Road Company ("LIRR") sued herein as Long Island Railroad Company, by its attorney, MARK D. HOFFER, answering the complaint of plaintiff, alleges upon information and belief:

1. Admits those allegations contained in paragraphs "FIRST" and "SECOND" of the Complaint.
2. Denies each and every allegation contained in paragraph "THIRD" of the Complaint and refers all questions of law and fact to the Trial Court.
3. Denies each and every allegation contained in paragraph "FOURTH" of the Complaint, except to admit that prior to February 16, 2006, and at all times hereinafter mentioned, the defendant owned the Hillside Maintenance Facility in Queens, New York.
4. Denies each and every allegation contained in paragraphs "FIFTH," "SIXTH," and "SEVENTH" of the Complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

5. Upon information and belief, that if the plaintiff was injured as is alleged in the

Complaint, he was injured in whole or in part by reason of his own negligence and without any fault or any negligence on the part of the defendant, its agents, servants and/or employees, and the defendant did not violate any statutes enacted for the safety of its employees.

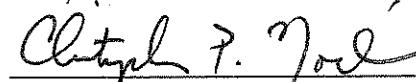
**AS AND FOR A SECOND AFFIRMATIVE DEFENSE**

6. Plaintiff fails to state a claim upon which relief may be granted under the FELA, as he was acting outside the scope of his employment at the time of the alleged occurrence.

**WHEREFORE**, defendant demands judgment dismissing the complaint herein together with costs and disbursements of this action.

Dated:      Jamaica, New York  
                 October 22, 2007

**MARK D.HOFFER, ESQ.**  
Vice President/General Counsel & Secretary  
Attorney for Defendant

By:   
**CHRISTOPHER P. YODICE (CPY-723)**  
LIRR Law Department - 1143  
Jamaica Station  
Jamaica, New York 11435-4380  
(718) 558-8235  
(File No. JN-6363 / 06/001018)

TO:      **MICHAEL FLYNN, ESQ.**  
            Law Offices of Michael Flynn, PLLC  
            Attorneys for Plaintiff  
            1205 Franklin Avenue  
            Garden City, New York 11530  
            (516) 877-1234